

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GEOFFREY DANIEL HESSER,

Petitioner,

v.

LIZZIE TEGELS,

Respondent.

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ORDER

20-cv-461-jdp

Geoffrey Daniel Hesser, appearing pro se, has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. He challenges judgments of conviction for second-degree sexual assault by use or threat of force or violence entered in Marathon County Case No. 2015CF977. Hesser brings one claim that he exhausted on appeal and several ineffective-assistance-of-counsel claims that he did not exhaust on appeal, including a claim that his lawyer did not call an expert witness to provide an alternative explanation of the victim's injuries.

Hesser asked the court to stay his habeas petition and hold it in abeyance while he takes his unexhausted claims to the state courts. *See* Dkt. 2. In my previous order, I stated that Hesser had not properly supported his request for stay and abeyance by explaining his progress in exhausting his claims in state court. *See* Dkt. 4, at 2–3. I gave him a chance to explain his plans for exhausting his unexhausted claims, in particular stating: (1) specifically when he plans to file his postconviction motion; and (2) how he intends to find an expert to testify about the victim's injuries. *Id.* at 3.

Hesser has now responded, stating that he will file a postconviction motion in his state trial court by December 15, 2020, and that he no longer wishes to pursue the aspect of his ineffective-assistance-of-counsel claims requiring expert testimony about the victim's

injuries. Dkt. 5. Given Hesser's response, I will grant his motion for a stay in part: he may have until December 15, 2020 to file a postconviction motion and to notify this court that he has done so. If he does file a postconviction motion by that deadline, I'll stay his habeas case pending resolution of his claims in state court. If Hesser does not file a postconviction motion by this deadline, then I'll dismiss his unexhausted claims and the case will proceed on only his exhausted claim.

ORDER

IT IS ORDERED that petitioner Geoffrey Daniel Hesser's motion to stay the proceedings, Dkt. 2, is GRANTED in part. Petitioner may have until December 15, 2020, to file a postconviction motion in state court and notify this court that he has filed a postconviction motion.

Entered November 10, 2020.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge